

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MONSANTO COMPANY and
MONSANTO TECHNOLOGY LLC,

Plaintiffs,

v.

E.I. DU PONT DE NEMOURS AND CO. and
PIONEER HI-BRED INTERNATIONAL, INC.,

Defendants.

Case No. 09-cv-0686 (ERW)

**MOTION FOR REEXAMINATION OF DOCUMENTS
HELD NOT PRIVILEGED IN SEPTEMBER 22, 2011 ORDER**

Pursuant to the Court's Order dated September 22, 2011 (Dkt. 894), Defendants DuPont and Pioneer hereby request that the Court reexamine the following 18 documents determined by the Court to be not privileged:

Tab	Item ID	Family Location	Tab	Item ID	Family Location
1	318098	Volume 1, Tab 10	10	2588923	Volume 22, Tab 1
2	1588981	Volume 2, Tab 10	11	2588887	Volume 23, Tab 1
3	1588982	Volume 2, Tab 10	12	2588918	Volume 23, Tab 1
4	1588987	Volume 2, Tab 10	13	2588921	Volume 23, Tab 1
5	18297981	Volume 6, Tab 16	14	3010320	Volume 28, Tab 10
6	2588884	Volume 22, Tab 1	15	3010322	Volume 28, Tab 10
7	2588893	Volume 22, Tab 1	16	3010452	Volume 28, Tab 11
8	2588896	Volume 22, Tab 1	17	3010454	Volume 28, Tab 11
9	2588907	Volume 22, Tab 1	18	15768056	Volume 36, Tab 7

Concurrently herewith, DuPont & Pioneer submit for *in camera* review a binder containing materials supporting the requests for reexamination as instructed in the Court's September 22, 2011 Order. For the reasons set forth in these materials, the Court should reexamine each of these 18 documents¹ and find them to be privileged.

¹ The documents at Tabs 2-4 and 6-18 are duplicates or close variants of each other.

Dated: October 3, 2011

Respectfully submitted,

LEWIS, RICE & FINGERSH, L.C.

By: /s/ C. David Goerisch
Andrew Rothschild, #23145MO
C. David Goerisch, #48418MO
600 Washington Avenue, Suite 2500
St. Louis, Missouri 63101
(314) 444-7600
(314) 241-6056 (facsimile)
arothschild@lewisrice.com
dgoerisch@lewisrice.com

Leora Ben-Ami
Thomas F. Fleming
Christopher T. Jagoe
Howard S. Suh
KAYE SCHOLER LLP
425 Park Avenue
New York, New York 10022
(212) 836-8000
(212) 836-8689 (facsimile)
lbenami@kayescholer.com
tfleming@kayescholer.com
cjagoe@kayescholer.com
hsuh@kayescholer.com

Donald L. Flexner
BOIES, SCHILLER & FLEXNER LLP
575 Lexington Avenue, 7th Fl.
New York, New York 10022
(212) 446-2300
(212) 446-2350 (facsimile)
dflexner@bsfllp.com

James P. Denvir
Amy J. Mauser
BOIES, SCHILLER & FLEXNER LLP
5301 Wisconsin Avenue, N.W.
Washington, D.C. 20015
202-237-2727
202-237-6131 (facsimile)
jdenvir@bsfllp.com
amauser@bsfllp.com

*Counsel for Defendants E.I. du Pont de Nemours and
Company and Pioneer Hi-Bred International, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2011, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

- **Steven M. Berezney**
steve.berezney@huschblackwell.com
- **Kurt G. Calia**
kcalia@cov.com
- **Matthew A. Campbell**
macampbell@winston.com
- **Scott W. Clark**
sclark@mwe.com
- **Joseph P. Conran**
joe.conran@huschblackwell.com
- **Todd J. Ehlman**
tehlman@winston.com
- **Anthony J. Franze**
Anthony.Franze@aporter.com
- **Greg G. Gutzler**
greg.gutzler@huschblackwell.com
- **James M. Hilmert**
jhilmert@winston.com
- **George C. Lombardi**
glombardi@winston.com
- **Kurt A. Mathas**
kmathas@winston.com
- **Omri E. Praiss**
omri.praiss@huschblackwell.com
- **John J. Rosenthal**
jrosenthal@winston.com
- **Mark A. Smith**
markasmith@winston.com
- **Steven G. Spears**
sspears@mwe.com,jjknapp@mwe.com
- **Tamara M. Spicer**
tamara.spicer@huschblackwell.com,jean.melenbrink@huschblackwell.com
- **Gail J. Standish**
gstandish@winston.com
- **Dan K. Webb**
dwebb@winston.com

/s/ C. David Goerisch